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145 Ind. 287, 297, 44 N. E. 462, 465. And annulment is therefore a necessary remedy, as it would seem contrary to public policy to condemn the defrauded party to a perpetual and unhappy association with the wrongdoer. See *Robertson v. Cole* (1854) 12 Tex. 356, 364. It appears impossible to form a definite rule for a question so complicated by particular circumstances. See 1 Blackstone, *Commentaries* (Cooley's 2d ed. 1872) 438, note. But the differences between marriage and other contracts are due to the great importance of the marriage relation itself. Cf. 18 R. C. L. 385; *Randall v. Kreiger* (1874) 90 U. S. 137, 147; *Maynard v. Hill* (1888) 125 U. S. 190, 205, 8 Sup. Ct. 723, 726. And, under the circumstances of the instant case it seems sound to hold the marriage voidable for such fraud as would render a contract voidable. The decision appears to tend to improve the marriage status more than to endanger its permanence, but the rule should be carefully limited.

PERSONS—HUSBAND AND WIFE—ALIENATION OF AFFECTIONS—SEPARATION NO DEFENSE.—The plaintiff, a married woman, sued another woman for the alienation of her husband's affections. The declaration set forth an interference by the defendant with the marital relation while husband and wife were living together, and a wilful continuance of that influence after they had separated. The plaintiff's request to instruct the jury that separation or unhappiness between husband and wife was no defense to the action was refused. *Held*, that such instruction should have been given. *Dey v. Dey* (1920, N. J. Sup. Ct.) 110 Atl. 703.

At common law it was well settled that a wife could not maintain an action for the alienation of her husband's affections, because the husband by virtue of his position would be joined as party plaintiff, and recover damages for his own wrong. See *Haynes v. Nowlin* (1891) 129 Ind. 581, 584, 29 N. E. 389, 390; (1918) 32 HARV. L. REV. 576. In most jurisdictions, however, the enactment of Married Women's Property Acts has been held to create in the wife a right to sue for alienation of affections. *Haynes v. Nowlin*, *supra*. The mere alienation of affections, unaccompanied by adultery, enticing, or procuring, has been held to be insufficient to maintain the action. *Houghton v. Rice* (1899) 174 Mass. 366, 54 N. E. 843. The weight of authority, however, permits the plaintiff to recover for the mere alienation of the spouse's affections. *Adams v. Main* (1892) 3 Ind. App. 232, 29 N. E. 792; *Rinehart v. Bills* (1884) 82 Mo. 534, 52 Am. Rep. 385. The decisions are not agreed as to whether evidence of a lack of conjugal affection at the time of the defendant's interference is a bar to the action. A few jurisdictions refuse to recognize the defendant's duty not to hinder, under the circumstances, the possibility of reconciliation between husband and wife. *Servis v. Servis* (1902) 172 N. Y. 438, 65 N. E. 270; *Hall v. Smith* (1913) 80 Misc. Rep. 85, 140 N. Y. Supp. 796. The principal case is in line with the majority rule in holding that a blameless spouse, after separation, has a right against interference with the marital relationship by the defendant, and that a lack of affections, or a separation, affects only the question of damages. *Moelleur v. Moelleur* (1918) 55 Mont. 30, 173 Pac. 419. Where, however, the plaintiff's own infidelity or cruelty is the moving cause of the separation, the other spouse is privileged to live apart. *Rodgers v. Rodgers* (1920, N. Y.) 128 N. E. 117. And it follows that under those circumstances the defendant's acts would also be privileged. *Smith v. Rice* (1916) 178 Ia. 673, 160 N. W. 6. See (1918) 28 YALE LAW JOURNAL, 88.

PRIVATE CORPORATIONS—IMPLIED POWERS—GUARANTY OF CUSTOMER'S INDEBTEDNESS.—The defendant corporation was chartered to "deal in lumber and other building materials both at wholesale and retail, and generally to do and perform